

**REPORT - PLANNING COMMISSION MEETING
December 2, 2004**

Project Name and Number: Vesting Tentative Parcel Map 8326 (PLN2005-00057)

Applicant: Walter Franke

Proposal: To consider a Vesting Tentative Parcel Map and Subdivision Modification for a three-lot single family residential subdivision on a 0.61 acre parcel with one lot having an existing home (circa 1949) at 177 Williams Court and one new single family home and a secondary dwelling unit on each of the remaining two lots in the Niles Planning area.

Recommended Action: Approve, based on Findings and subject to Conditions

Location: 177 Williams Court, Niles Planning Area

Assessor Parcel Number: 507 080903200

Area: Gross Area: 26,753 SF; Proposed – Parcel 1 – 11, 836 SF; Parcel 2 – 6,534 SF; Parcel 3 – 6,522 SF

Owner: Walter Franke

Consultant: Chuck Ludwig, Fremont Engineers

Environmental Review: Categorical exemption per Section 15315 of the CEQA Guidelines, Minor Land Divisions.

Existing General Plan: Medium Density Residential (6.5 to 10 dwelling units per acre)

Existing Zoning: R-1-6, Single Family Residence District

Existing Land Use: One single-family residence

Public Hearing Notice: Public hearing notification is applicable. A total of 79 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Williams Court, King Avenue, Jewel Terrace, Crown Terrace, Marquis Terrace, Sandstone Drive, Stonebridge Drive, Harrisburg Avenue, Rivercreek Drive, Summerwood Drive, Crown Court, Terrace Drive and Mission Boulevard. The notices to owners and occupants were mailed on November 12, 2004. A Public Hearing Notice was delivered to The Argus on November 15, 2004 to be published by November 18, 2004.

Project Description: The applicant is requesting approval for a Vesting Tentative Parcel Map 8326 for the subdivision of one existing lot, approximately 26,753 square feet total, into three single-family residential lots with a minimum lot size of 6,000 square feet.

The existing one-story single family home built by the applicant's parents, Walter and Hedwig Franke, will remain on Parcel 1 with access off of Williams Court. Parcel 2 will measure 6,534 square feet while Parcel 3 will measure 6,522 square feet in size. The applicant is proposing one single-family home and a secondary unit on each of Parcels 2 and 3, which front Terrace Drive.

Project Analysis:

- **General Plan Conformance:** The existing General Plan land use designation for the project site is Medium Density Residential, 6.5-10 dwelling units per acre. The proposed project is consistent with the existing General Plan land use designation for the project site and the proposed medium-density single-family residential development implements Land Use Element policies and Housing Element Programs. The following General Plan Goals, Objectives, and Policies are applicable to the proposed project:

Land Use policy LU 1.1: Residential use is the primary allowed use in a residentially designated area. The type of residential use depends on the permitted density and other criteria to protect neighborhood character and the safety and welfare of residents.

Analysis: The proposed project meets the requirements of the Medium density 6.5 to 12 dwelling units per acre designation with 5 dwelling units proposed on 0.61 acres at 8.25 (midpoint) dwelling units per acre. The applicant is proposing to retain the single-family home (circa 1949) and build a new single-family unit and secondary dwelling unit on each of the new parcels.

Fundamental Goal (F13): Vital connections between the history and heritage of the community and every day life.

Analysis: Although the existing home is not a Primary Historic Resource, the Franke House, built in 1949 over a period of three years, exhibits a Ranch-style residential architecture that is characteristic of the postwar period in California and the Bay Area. Upon first visiting this house and setting, one is reminded of illustrative floor plans and photos of Ranch-style houses published in Sunset's Western Homes books of the 1950s and early 1960s. The single-story, T-shaped structure is decidedly horizontal in plan, accentuated by the spacious and inviting L-shaped front veranda. The presence of numerous casement windows on front, side and rear façades further contributes to the comfortable, open character of this house. A tall, stately cactus is a major character-defining feature of the house's rear area, in addition to the covered patio. The condition of the house appears to be exceptionally good. Nearly all of the structure's building materials, hardware, ornament and finishes appear to be intact from date of construction. The proposed vesting tentative parcel map provides for the retention of the Franke House, while allowing for new residential development.

- **Zoning Regulations:** The project site currently has a zoning designation of R-1-6, Single Family Residence District. A single-family detached residential development is a permitted use within the Single Family Residence District [Fremont Municipal Code (FMC) Section 8-2601]. The proposed subdivision is typical of the surrounding uses and development in the neighborhood.

Analysis: The proposed project consists of the subdivision of one existing lot, totaling approximately 0.61 acres, into three single-family residential lots with a minimum lot size of 6,000 square feet. Any development on this site would be required to comply with standards and guidelines adopted for the R-1-6 district, as well as all applicable building and zoning regulations. The following table represents lot and siting requirements (FMC Section 8-2605.)

R-1-6 Zoning Lot & Siting Standards	
Maximum Building Height	30 feet
Minimum Lot Area	6,000 square feet
Minimum Lot Width	55 feet
Street Frontage	35 feet
Front Setbacks	20 feet
Side Yard Setbacks	Minimum 5 feet, total 12 feet for 1 story Minimum 6 feet, total 15 feet for 2 stories
Rear Setbacks	25 feet for 1 st Floor

The proposed project is in compliance with the lot area, lot width, street frontage requirements for properties with a R-1-6 zoning designation. Rear and side yard requirements are substituted in the case of the rear yard setback for Parcel 1 proposed at 8.5 feet and a side yard of 32 feet. The applicant will conform with the zoning regulations pertaining to Secondary Dwelling units.

- **Subdivision Regulations:** The applicant is requesting a Subdivision Modification (FMC Section 8-1515) pertaining to lot depth requirements. The required minimum lot depth for R-1-6 lots is 100 feet. The applicant is proposing lot depths of 99 feet rather than the minimum 100 feet required because the property owner would like to keep at least 8.5 feet separation between the existing house and the new property line. The resulting rear yards

will be 34 feet, while the minimum is only 25 feet. The new parcels will be consistent with the adjoining neighbor's parcels, which are similarly less than 100 feet deep. The adjoining parcel to the north is 90.90 feet deep, while the adjoining parcel to the south is 85.08 feet deep.

FMC Section 8-1803 of the Subdivision Ordinance provides the Planning Commission the discretion of permitting a modification from the required standards if it finds such modifications to be warranted. Although the proposed depth is not in compliance with the required depth, the applicant is proposing to retain the existing structure (circa 1949) on the site.

- **Circulation/Access Analysis:** Access to Parcel 1 will continue to be from Williams Court, an existing private street. No additional street improvements are required for Williams Court. Access to Parcels 2 and 3 will be from Terrace Drive, an existing public street. The owners of Parcels 2 and 3 will be required to dedicate street right of way on Terrace Drive with the final parcel map. Installation of street improvements can be deferred until the time of building permit issuance on each parcel. Street improvements shall include additional pavement, curb, gutter, sidewalk, driveways and utility services. A note referencing this future improvement obligation will be placed on the final parcel map.
- **Utility Services:** The existing home on Parcel 1 shall continue to be served from existing facilities in Williams Court. Parcels 2 and 3 will be served by existing utilities across their Terrace Avenue frontage. A six-foot wide Public Service Easement across Parcels 2 and 3 shall be required to be dedicated with the final Parcel Map.

Development Impact Fees: This project will be subject to Citywide Development Impact Fees for Parcels 2 and 3. These fees may include fees for fire protection, parkland dedication-in-lieu, park facilities, capital facilities and traffic impact. These fees shall be calculated at the fee rates in effect at the time of building permit issuance for Parcels 2 and 3. Secondary dwelling unit fees will also be applied.

Urban Runoff Clean Water Program: The Federal Clean Water Act of 1972 and Water Quality Act (1987) require localities throughout the nation to obtain a National Pollutant Discharge Elimination System permit (NPDES) in order to discharge storm water into public waterways such as creeks, rivers, channels and bays. The applicant will comply with the City's Urban Runoff Clean Water program in accordance with the NPDES requirements issued by

Environmental Analysis: This project is categorically exempt from CEQA per Section 15315 of the CEQA Guidelines. This section allows exemptions for Minor Land Divisions.

Response from Agencies and Organizations: No responses have been received.

Enclosures: Exhibit "A" Vesting Tentative Parcel Map 8326
Exhibit "B" Findings and Conditions of Approval for VTPM 8326

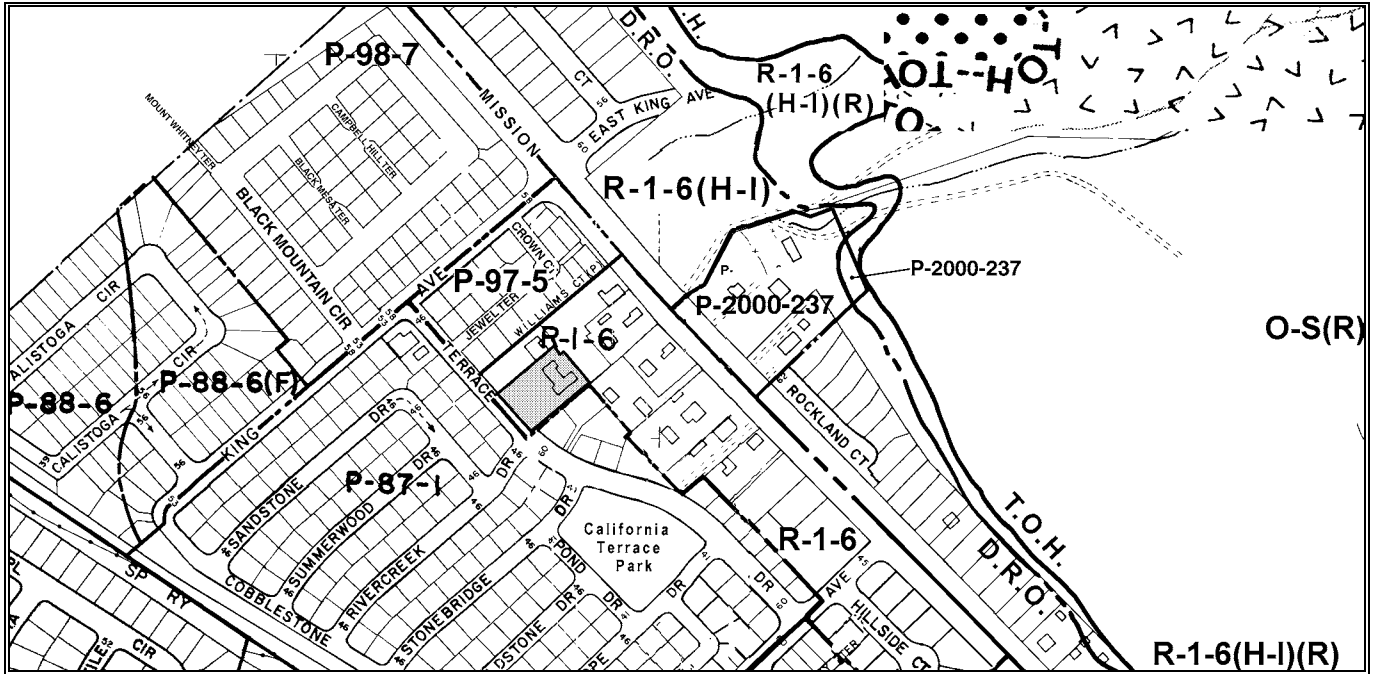
Exhibits: Exhibit "A" Vesting Tentative Parcel Map 8326

Recommended Actions:

1. Hold public hearing.
2. Find the proposed project to be categorically exempt from environmental review per Section 15315 of the CEQA Guidelines.
3. Find that the modification to the length of the lots is warranted because of the site configuration, length of the parcel and the preservation of the existing home.
4. Find Vesting Tentative Parcel Map 8326 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan as enumerated within the staff report.

5. Find Vesting Tentative Parcel Map 8326 fulfills the intent of the applicable requirements set forth in the Fremont Municipal Code.
6. Approve Tentative Parcel Map 8326, as shown on Exhibit "A", based upon the findings and subject to conditions of approval set forth in Exhibit "B"

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan

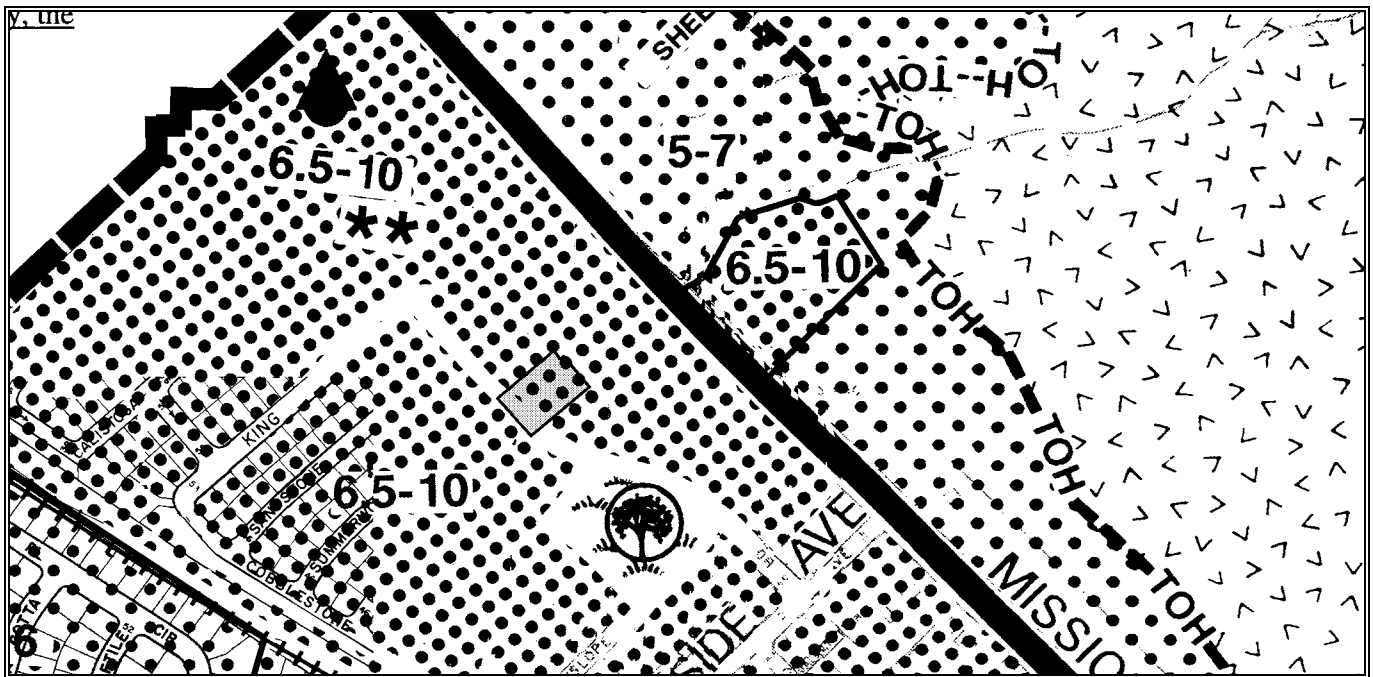


EXHIBIT "B"
VESTING TENTATIVE PARCEL MAP 8326 (VTPM-8326)

FINDINGS

The findings below are made on the basis of information contained in the staff report to the Planning Commission dated November 18, 2004, incorporated hereby, and testimony at the public hearing.

1. The proposed map satisfies the requirements and conditions imposed by the Subdivision Map Act and the City of Fremont Subdivision Ordinance because the procedural requirements of the Map Act are being followed and the proposed lots conform to the standards set forth in the Subdivision Ordinance.
2. The proposed subdivision, together with the provisions of its design and improvement, is consistent with the General Plan and any applicable specific plans since the proposed lot configuration, for three single-family homes and two secondary units, is in conformance with the medium density residential, 6.5 to 10 dwelling unit requirements of the General Plan.
3. The site is physically suitable for the type and proposed density of the development since the proposed lot configuration, for three single-family homes and two secondary units, is in conformance with the medium density residential (R-1-6) requirements of the Zoning Ordinance.
4. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because of the design and location of the development is on a site which has already been developed and used for residential purposes and contains no critical habitat.
5. The design of the subdivision and the type of improvements are not likely to cause serious public health problems since the review process of the subdivision has taken those concerns into consideration, the site is already served with utilities, or nearby utility connections are available, and has found the proposal in conformance with the City of Fremont's policies.
6. The design of the subdivision and the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision. New easements will be required to be dedicated prior to final parcel map approval.

CONDITIONS:

1. Conformance with staff amended Exhibit "A", attached hereto and made a part hereof.
2. This Vesting Tentative Parcel Map (VTPM) is being conditionally approved based on the accuracy of the information shown on Exhibit "A" and submitted with the VTPM application. If any of the information is shown to be inaccurate subsequent to approval of the VTPM by the City, such inaccuracy may be cause for invalidating this approval.
3. Only one final Parcel Map is allowed to accomplish the lot splits proposed by this vesting tentative parcel map. No "Phasing" of final parcel maps is allowed.
4. All new development of the site shall be in conformance with the R-1-6 Zoning District, except that minimum lot depth may be reduced to 99 feet.

5. Site grading and drainage is subject to the approval of the Development Organization Engineer at the time of building permit issuance. Site grading must not obstruct natural flow from abutting properties or divert drainage from its natural watershed. The drainage area map developed for the drainage design for this project shall be based on the original drainage area map developed for the existing storm drain system and shall clearly indicate all areas tributary to the project site.
6. Pursuant to FMC Section 8-1300(e), a preliminary grading plan for the site may be required at the time of building permit application to determine whether the existing and/or proposed grading is in compliance with the requirements for grading and erosion control as set forth in the Grading Ordinance. Original and proposed final contours are required (at five-foot intervals where the ground slope exceeds 5% and at one-foot intervals where the ground slope is less than 5%) to indicate the extent of the proposed grading. Site grading must not obstruct natural flow from abutting properties or divert drainage from its natural watershed.
7. A private storm drainage easement is necessary across Parcel 2 to accept drainage from Parcel 1 and transmit it to the existing storm drainage system. The dimensions and location of this easement shall be subject to the approval of the City Engineer. The private storm drainage easement (P.S.D.E.) is to be shown on the final parcel map, and the owner's statement is to contain wording to the effect that the owner reserves, for the use of Parcel 1, the right to construct and maintain storm drainage facilities and their appurtenances under, on, and over those certain strips of land for the purpose of constructing, maintaining, reconstructing, or repairing said storm drainage facilities and their appurtenances. Any necessary similar PSDE's for development of any parcel shall be dedicated on the final parcel map.
8. Pursuant to FMC Section 8-1523, the record owner(s) are to dedicate the required street right-of-way and public easements as shown on the Exhibit "A". Any additional easements required by the various public utilities and public agencies shall be dedicated prior to final parcel map approval.
9. Pursuant to FMC Section 8-3107(f), any improvements in the public right-of-way necessitated by the proposed use of the subdivided property can be deferred until building permit issuance. The necessary agreements, guarantees and plans for the construction of the improvements shall be subject to the approval of the Development Organization Engineer. A note referencing this future improvement obligation is to be placed prominently on the face of the final parcel map.
10. Pursuant to FMC Section 8-3107(f), improvement requirements on Terrace Drive can be deferred until further development of the property. A note referencing this future improvement obligation is to be placed prominently on the face of the final parcel map.
11. Utility service connections to Parcels 2 and 3, including electrical and communications, shall be installed underground.
12. Review of the vesting tentative parcel map by the Fire Department relative to local and State Fire Code is based on the material submitted. Therefore, if the map is revised prior to final submittal, the Fire Marshal should be contacted so that any changes may be properly reviewed and evaluated. The on-site and/or off-site fire hydrants were required, as per vesting tentative parcel map annotations, in accordance with Fremont Fire Code Article No. 13.
13. Removal of existing trees over four inches in diameter, excluding nut-bearing and fruit-bearing trees, except for olive trees, shall be subject to the approval of the Senior Landscape Architect for the City. The precise location of such existing trees shall be shown on the site plan and/or landscape plan at the time of building permit application.
14. Pursuant to FMC Section 8-1524, a park dedication in-lieu fee is required for Parcel(s) 2 and 3. The fee per parcel shall be as set forth in the City Master Fee Resolution in effect at the time of building permit issuance.
15. The subdivider is required to provide a cash payment to the City of Fremont for microfilming the recorded final parcel map. The subdivider is also required by ordinance to provide the City with a mylar copy of the recorded final parcel map subsequent to its recordation.

16. The subdivider shall provide a letter from Alameda County Water District giving the location and sealing specifications for all water wells within the parcel map boundary. If there are no wells, a letter so stating must be provided.
17. Building and Zoning considerations require specific building setbacks consistent with the R-1-6 zoning designation. Existing buildings, walls and fences encroach into this setback on Parcels 2 and 3 and should be demolished and removed from the site prior to approval of the final parcel map. The applicant shall acquire a demolition permit from the City of Fremont and the Bay Area Air Quality Management District (BAAQMD) prior to the start of this demolition work.
18. Any development on this site will be subject to City-wide Development Impact Fees. These fees may include fees for fire protection, capital facilities, park facilities, and traffic impact. The fees shall be calculated at the rate in effect at the time of building permit issuance. The fees will be collected prior to building permit approval.
19. In accordance with Section 66474.9(b) of the Subdivision Map Act, the subdivider shall indemnify and hold harmless the City of Fremont or its agents, officers, or employees from any claim, action, or proceeding against the City of Fremont or its agents, officers, or employees to attack, set aside, void, or annul an approval of the City of Fremont, advisory agency appeal board, or legislative body concerning this subdivision, which action is brought within the time period provided for in Section 66499.37.
20. The City of Fremont shall promptly notify the subdivider of any claim, action, or proceeding to attack, set aside, void or annul its approval and shall cooperate fully in the defense.
21. The applicant shall provide (4) 24" Box size *Fraxinus Americana* Street Trees planted in the City Right of Way along Terrace Drive. Street trees shall conform to City Standard Tree Planting detail, SD-34.
22. The applicant is required to build one new single family home and a secondary dwelling unit on both Parcels 2 and 3.
23. Plans shall be submitted to the Development Organization for review and approval to ensure conformance with relevant codes, policies, and other requirements of the Fremont Municipal Code.

SUBDIVIDER PLEASE NOTE:

The fees, dedications, reservations and/or other exactions imposed on this project are those listed in the foregoing conditions of tentative parcel map approval. Any fee, dedication, reservation or other exaction is deemed imposed on the date of this tentative parcel map approval. The subdivider is hereby notified that the 90-day period in which the subdivider may protest these fees, dedications, reservations and other exactions pursuant to Government Code Section 66020(a) begins on the date they are imposed. If the subdivider fails to file a protest within this 90-day period complying with all the requirements of Government Code Section 66020, the subdivider will be legally barred from later challenging such actions.